

Service Date: September 28, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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|  |   |                        |
|--|---|------------------------|
| IN THE MATTER of the Application of    | ) | UTILITY DIVISION       |
| of the City of Great Falls to Operate  | ) |                        |
| a Limited Small Commercial and         | ) | DOCKET NO. D2005.7.110 |
| Residential Electricity Supply Program | ) | ORDER NO. 6694b        |

**FINAL ORDER**

**Background**

1. On July 21, 2005, the City of Great Falls (Great Falls) filed a petition with the Montana Public Service Commission (Commission) for approval of a small customer electricity supply program (SCESP). The petition included an embedded application for an electricity supplier license to serve Small Customers (Embedded Application).<sup>1</sup> The petition included a Standard Service Offer (SSO) by which customers choosing Great Falls as an electricity supplier would be obligated to purchase from Great Falls until June 30, 2011. The petition did not include any pre-filed testimony.

2. On July 29, 2005, the Commission issued a Notice of Application, Opportunity to Comment and Intervention Deadline. The Commission established August 29, 2005 as the intervention deadline. On August 5, 2005, the Montana Consumer Counsel (MCC) filed a Petition to Intervene. On August 26, 2005, NorthWestern Energy (NWE) filed a Petition to Intervene. On September 6, 2005, NWE withdrew its Petition to Intervene. On January 10, 2006, the Commission granted intervention to the MCC.

3. On August 18, 2005, the Commission denied the Embedded Application and stated that it would reconsider the Embedded Application when it considered the petition.

4. On September 28, 2005, the Commission issued Procedural Order No. 6694.

5. On October 27, 2005, Mr. Harley Harris of Luxan & Murfitt, PLLP filed a Notice

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<sup>1</sup> Small Customer is defined by § 68-8-103(27), MCA.

of Appearance on behalf of Great Falls.

6. On November 3, 2005, Great Falls filed a Motion to Modify Procedural Order in which it requested three months from the issuance of any modified procedural order to prepare and file testimony and exhibits.

7. On December 21, 2005, the Commission issued Revised Procedural Order No. 6694a.

8. On January 30, 2006, Great Falls filed testimony of John Lawton, Colleen Balzarini, Tim Gregori, and Youssef Hegazy. On March 20, 2006, the MCC filed testimony of Larry Nordell. On April 19, 2006, Great Falls filed supplemental testimony of Colleen Balzarini.

9. On January 30, 2006, Great Falls filed a Motion for Leave to Amend Petition or, In the Alternative, to Intervene as Petitioner. Great Falls sought to have Electric City Power, Inc., (ECPI) added as an applicant. ECPI is a public benefit corporation organized and owned by Great Falls. On June 20, 2006, in Docket No. N2006.5.69, the Commission granted ECPI an electricity supplier license to serve all customers other than Small Customers.

10. On May 11, 2006, Great Falls filed a Motion for Entry of Stipulation as Consent Order. Attached to the motion was a stipulation between Great Falls and the MCC (Stipulation).

11. On June 2, 2006, the Commission issued a Notice of Public Hearing. The Commission held a public hearing in Great Falls on June 28, 2006.

### **Discussion**

12. The Stipulation provides that the following documents shall be admitted to the record without objection:

a. The pre-filed testimony of John Lawton, Colleen Balzarini, Tim Gregori, Youssef Hegazy, and Larry Nordell with accompanying exhibits;

b. The pre-filed supplemental testimony of Colleen Balzarini with accompanying exhibits;

c. Great Falls' responses to Data Requests PSC-001 through PSC-031 and MCC-001 through MCC-005; and

d. MCC's responses to Data Requests ECP-001 through ECP-009.

13. The Stipulation provides that the Commission should grant Great Falls' Motion for Leave to Amend and that only of Great Falls or ECPI will operate a SCESP.

14. The Stipulation provides that the proposed SCESP will serve no more than 20 customers whose total average monthly demand is no more than 226.5 kW and will be in effect for no more than five years from the date of an order approving the program.

15. The Stipulation provides that the MCC stipulates that Great Falls made an adequate showing that the proposed SCESP will not cause higher or more unstable rates for default supply customers.

16. Section 69-8-201(6), MCA, provides:

An electricity supplier licensed by the commission to offer electricity supply service to small customers may petition the commission for the opportunity to provide electricity to small customers. The total average monthly demand for all customers referred to in subsection (2)(a) in each calendar year that receive service from an electricity supplier that is not the default supplier may not exceed 10,000 kilowatts. The commission shall ensure that electricity supply service provided pursuant to this subsection is consistent with the requirements in subsection (5) and the provision of default supply service pursuant to this chapter.

17. The total average monthly demand of the proposed SCESP is within the limit established by this subsection.

18. Section 69-8-201(5), MCA, (subsection (5)) requires the Commission to adopt rules to enable customers to have reasonable choice while providing protection for small customers from higher or more unstable rates than would otherwise result if choice was not available. The portion of the Stipulation referenced in ¶ 15, supra, addresses the requirements of subsection (5).

19. The Commission accepts the parties' stipulation that the SCESP will not result in higher or more unstable rates for default supply customers. However, the parties disagreed as to the proper methodology for determining the effect of a more extensive small customer electric supply program than the SCESP. This order does not establish, and should not be considered, precedent as to the proper methodology for such a determination. If Great Falls or ECPI should request authorization for a more extensive program, the proper method for determining the effect on small customer default supply rates may be an issue.

20. The provision of default supply service includes, but is not limited to the following requirements:

- a. an obligation to offer customers the option to purchase a product

composed of or supporting power from environmentally preferred resources, § 69-8-210(3), MCA;

b. obligations to plan for resource needs, manage a portfolio of resources, and procure new resources when needed, § 69-8-419(1)(a), MCA;

c. an obligation to allow net metering, § 69-8-602(1), MCA; and

d. an obligation to purchase power or renewable energy credits from eligible renewable resources to meet a renewable resource standard, § 69-8-1004, MCA.

21. No part of the Stipulation addresses consistency of the proposed SCESP with the requirements of the provision of default supply service.

22. The parties did not provide the Commission with a record by which to judge whether the SCESP is consistent with the provision of default supply service and the attendant obligations. This order does not establish, and should not be considered, precedent establishing the criteria for determining that a more extensive small customer electric supply program is consistent with the provisions of default supply service.

23. In supplemental pre-filed testimony, Colleen Balzarini offered two new exhibits, CB-005 titled “Standard Customer Service Contract” and CB-006 titled “Standard Short-term Service Offer.” She represents that CB-006 is intended to comply with the requirements of ARM 38.5.8005(1).

24. ARM 38.5.8005(1) provides, in pertinent part, as follows:

Licensed suppliers serving residential and small business (under 20 kW) customers must maintain a standard service offer characterized by:

- (a) service contracts no longer than three months, except as provided in (3);
- (b) fixed prices per kilowatt-hour of consumption and per kW demand, as applicable, subject to (2) through (4);

25. ECPI’s Standard Short-term Service Offer provides a contract term of three months or twelve months under a budget/fixed monthly bill option. The term complies with ARM 38.5.8005(1)(a).

26. ECPI’s Standard Short-term Service Offer provides for a price indexed to the default supply price. Such a price is not a fixed price per kilowatt-hour. The price provision does not comply with ARM 38.5.8005(1)(b).

27. The titles of the offerings, Standard Customer Service Contract and Standard

Short-term Service Offer, tend to be confusing and misleading. Only one of the offers is a standard offer. The other offer is an optional offer. Acceptable titles for the offers are “Optional Customer Service Contract” and “Standard Service Offer.”

28. The Stipulation provides, “During the term of the [SCESP] ECP Inc. may vary the types of electricity supply products offered to Small Customers so long as those products comply with all applicable statutory and regulatory requirements, and so long as ECP Inc. provide [sic] the Commission and MCC with 30 days’ notice prior to the commencement of such service.”

29. ARM 38.5.8005 requires that electric suppliers maintain a compliant standard service offer at all times. ECPI must maintain a compliant offering titled “Standard Service Offer” at all times. No electricity supply products offered to Small Customers under the SCESP may extend beyond the term of the program, five years, from the date of this order.

### **ORDER**

It is hereby ordered:

1. Great Falls’s Motion for Leave to Amend Petition is granted, and Electric City Power Inc. is a co-applicant;

2. Upon fulfilling the conditions contained in the following two paragraphs, the City of Great Falls and Electric City Power Inc. are authorized to offer electricity supply service to small customers through a single small customer electric supply program limited to a total of 20 customers whose total average monthly demand is no more than 226.5 kW;

3. Before offering electricity supply service to small customers, the City of Great Falls and/or Electric City Power, Inc., must file and have accepted by the Commission a Standard Service Offer, titled as such, with the term equal to or shorter than that in the Standard Short-term Service Offer and with a fixed price per kilowatt-hour; and

4. Before offering electricity supply service to small customers, the City of Great Falls and/or Electric City Power, Inc., must remove the word “Standard” from the title of all offers of electricity supply service other than the Standard Service Offer and clearly indicate that those offers are optional products;

5. The authorization to offer electricity supply service to small customers expires five years from the date of this order unless extended by action of the Commission; and

6. Upon receipt and approval of the documents referred to in paragraphs 3 and 4, the

Commission will issue an amendment to Electric City Power, Inc.'s License to Supply Electricity that authorizes service to Small Customers consistent with the SCESP.

DONE IN OPEN SESSION at Helena, Montana on the 26<sup>th</sup> day of September, 2006 by a vote of 4 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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Greg Jergeson, Chairman

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Brad Molnar, Vice Chairman

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Doug Mood, Commissioner

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Robert H. Raney, Commissioner

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Thomas J. Schneider, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)

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NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.